

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 323

Introduced by Jensen, 20

Read first time January 12, 1999

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Long-Term Care Insurance Act; to amend
2 sections 44-4501 and 44-4518, Reissue Revised Statutes of
3 Nebraska; to provide provisions relating to
4 incontestability and nonforfeiture; to change provisions
5 relating to rules and regulations; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4501, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-4501. Sections 44-4501 to 44-4520 and sections 2 and
4 3 of this act shall be known and may be cited as the Long-Term Care
5 Insurance Act.

6 Sec. 2. (1) For a policy or certificate that has been in
7 force for less than six months, an insurer may rescind a long-term
8 care insurance policy or certificate or deny an otherwise valid
9 long-term care insurance claim upon a showing of misrepresentation
10 that is material to the acceptance for coverage.

11 (2) For a policy or certificate that has been in force
12 for at least six months but less than two years, an insurer may
13 rescind a long-term care insurance policy or certificate or deny an
14 otherwise valid long-term care insurance claim upon a showing of
15 misrepresentation that is both material to the acceptance for
16 coverage and which pertains to the condition for which benefits are
17 sought.

18 (3) After a policy or certificate has been in force for
19 two years it is not contestable upon the grounds of
20 misrepresentation alone. Such policy or certificate may be
21 contested only upon a showing that the insured knowingly and
22 intentionally misrepresented relevant facts relating to the
23 insured's health.

24 (4)(a) No long-term care insurance policy or certificate
25 may be field issued based on medical or health status.

26 (b) For purposes of this section, field issued means a
27 policy or certificate issued by an agent or a third-party
28 administrator pursuant to the underwriting authority granted to the

1 agent or third-party administrator by an insurer.

2 (5) If an insurer has paid benefits under a long-term
3 care insurance policy or certificate, the benefit payments may not
4 be recovered by the insurer in the event that the policy or
5 certificate is rescinded.

6 (6) In the event of the death of the insured, this
7 section shall not apply to the remaining death benefit of a life
8 insurance policy that accelerates benefits for long-term care. In
9 this situation, the remaining death benefits under these policies
10 shall be governed by section 44-502. In all other situations, this
11 section shall apply to life insurance policies that accelerate
12 benefits for long-term care.

13 Sec. 3. (1) Except as provided in subsection (2) of this
14 section, a long-term care insurance policy may not be delivered or
15 issued for delivery in this state unless the policyholder or
16 certificate holder has been offered the option of purchasing a
17 policy or certificate, including a nonforfeiture benefit. The
18 offer of a nonforfeiture benefit may be in the form of a rider that
19 is attached to the policy. In the event the policyholder or
20 certificate holder declines the nonforfeiture benefit, the insurer
21 shall provide a contingent benefit upon lapse that shall be
22 available for a specified period of time following a substantial
23 increase in premium rates.

24 (2) When a group long-term care insurance policy is
25 issued, the offer required in subsection (1) of this section shall
26 be made to the group policyholder. However, if the policy is
27 issued as group long-term care insurance, other than to a
28 continuing care retirement community or other similar entity, the

1 offering shall be made to each proposed certificate holder.

2 (3) The director shall adopt and promulgate rules and
3 regulations specifying the type or types of nonforfeiture benefits
4 to be offered as part of long-term care insurance policies and
5 certificates, the standards for nonforfeiture benefits, and the
6 rules regarding contingent benefit upon lapse, including a
7 determination of the specified period of time during which a
8 contingent benefit upon lapse will be available and the substantial
9 premium rate increase that triggers a contingent benefit upon lapse
10 as described in subsection (1) of this section.

11 Sec. 4. Section 44-4518, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 44-4518. The director shall adopt and promulgate rules
14 and regulations to promote premium adequacy and to protect the
15 policyholder in the event of substantial rate increases and to
16 establish minimum standards for marketing practices, agent
17 compensation, agent testing, penalties, and reporting practices for
18 long-term care insurance.

19 Sec. 5. Original sections 44-4501 and 44-4518, Reissue
20 Revised Statutes of Nebraska, are repealed.